

# Administrative Office of the Courts

Supreme Court of New Mexico

Arthur W. Pepin, Director  
Patrick Simpson, Deputy Director



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## **COURT INTERPRETER ADVISORY COMMITTEE**

### **AGENDA**

**March 9, 2012**

**9:00 a.m. – Noon**

Video Conferencing from:

Third Floor Conference Center Second Judicial District Court in Albuquerque; JID Conference Room B, Santa Fe; Doña Ana Magistrate Court-small conference room; Eleventh Judicial District Court in Aztec (tentative); Twelfth Judicial District Court in Alamogordo; Fifth Judicial Court, Roswell.

Tele-conferencing: 888-757-2790, Pass Code 573116

1. Introductions and Welcome
2. Approval of Agenda
3. Approval of January 13, 2012 Minutes (Attached)

### **UNFINISHED BUSINESS**

4. Review of Proposed Cancellation Policy (Attached)
5. Review of Second Draft – Post Certification Requirements  
See Proposal Attached.
6. Pay Discrepancy Between Spoken & Signed Language Interpreters  
See Proposal Attached.
7. Sound Files – Elizabeth Mayes (Attached)
8. LAS Ethics/Procedures Work Group with NMCLA

### **NEW BUSINESS**

9. Washington State Courts Candidate Background/Oral Exam Results Study  
See Proposal Attached.
10. Request from Ann Tran (Attached)

### **REPORTS AND UPDATES**

11. SJJ Concept Paper – NM Judicial Translation Project
12. Standards of Practice and Proposed Rules
13. 2012 NM Interpreters' Conference
14. Next Meeting – May 11, 2012 9:00 a.m. to Noon via Video Conference

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## COURT INTERPRETER ADVISORY COMMITTEE

### AGENDA

January 13, 2012

### MINUTES

#### Members Present

Weldon Neff, Chair  
Andrea Cutter  
Renee Valdez  
Lisa Dignan  
Shoshanah Epstein  
Justice Patricio Serna  
Alex Montoya  
Graciela Palafox-Ogas  
Blanche Raymond  
Rosa Lopez-Gaston

#### Staff Present

Pam Sánchez

#### Members Absent

Arthur Pepin  
Judge Freddie Romero  
Michael Kagan (non-voting)  
Georgia Vigil (non-voting)  
Farah French (non-voting)  
Mohamed Ali (non-voting)

#### Guests Present

Flor de Maria Oliva  
Barbara Shaffer  
Elizabeth Mayes  
Abel Flores  
Paula Couselo

1. The meeting was called to order by Chair, Weldon Neff, at 9:30 a.m. due to technical difficulties with the video connections. All members and guests were introduced, with a special welcome to newly appointed voting members, Renee Valdez and Graciela Palafox-Ogs.
2. Approval of Agenda – It was moved by Shoshanah Epstein, seconded by Alex Montoya, and passed by a vote of the membership to add, time permitting, Sound Files and Certification to the agenda.
3. The September 9, 2011 Minutes were approved by consensus.
4. Recommendation to Supreme Court regarding Broadening Committee Membership to Address Language Access – Justice Serna called the attention of the Committee to the recent Supreme Court order broadening the scope of the committee's work to include addressing issues of language access outside the courtroom. He reiterated the Court's appreciation for the committee's commitment to language access.
5. 2012 Meeting Schedule -- It was moved by Rosa Lopez-Gaston, seconded by Alex Montoya, and passed that the committee continue to meet six times a year, the second Friday of every other month, beginning in January. Weldon Neff indicated that

the meeting schedule will be revisited mid-year and may be adjusted based on committee workload.

6. Cancellation Policy Recommendations – Flor de Maria Oliva briefly summarized a number of issues presented to the Committee including: pay discrepancies between spoken and signed language interpreters, standards for certification, and sound files.

Ms. Oliva provided details regarding her recommendation to change the cancellation policies relating to less than 24 hour notice of cancellation for assignments two days or more in length, which has been of concern to both spoken and signed language interpreters. Following a lengthy discussion, Shoshanah Epstein moved, Andrea Cutter seconded, and the committee passed the following recommendation with one abstention:

Motion: That the Committee recommends a change to the AOC's interpreter cancellation policy, which mandates that any signed or spoken language interpreter who has been scheduled for an assignment two or more days in length and receives less than 24-hour notice of cancellation, will be paid for eight hours at their regular hourly rate of pay.

Guaranteed payment for assignments scheduled for one day or less and cancelled with less than 24-hour notice are not affected by this recommendation. Pam Sánchez was instructed to edit the current cancellation policy incorporating the new language and provide it to the committee for review and discussion at its next meeting.

The committee briefly discussed the following issues raised by Ms. Oliva.

- Interpreters should be paid for prep time: Ms. Sánchez reported that upon request from a court or interpreter, time spent preparing for an assignment, such as reviewing documents at the court prior to the proceeding, is reimbursed. Once the Supreme Court Rules are approved, the committee will review the related Standards of Practice to see if the addition of language regarding preparatory is necessary.
- The AOC should pay interest on payments past 30 days due to an interpreter: It was clarified that NM Department of Finance and Administration rules prohibit this.
- State issued 1099 forms should not include gross receipts tax payments paid to the interpreter as income: It was agreed that this can be a problem, but again this is an issue of the Department of Finance and Administration, and needs to be addressed by the interpreter who believes that s/he has received an incorrect 1099.

7. Freelance Interpreter Agreement – The committee briefly discussed the agreement used by New Jersey state courts. Pam was instructed to draft an acknowledgment statement for the committee's consideration, by which an interpreter could attest to receiving and understanding the standards of practice, payment policies, and court interpreter rules and agreeing to abide by them as they pertain to interpreter performance.
8. Post-certification Mandatory Workshop – The proposal submitted by Ms. Sánchez was discussed and the following points were agreed to by consensus:

- Any post-certification training requirements should be free to the interpreter;
  - Mandatory court observations could be scheduled for one or two newly certified interpreters at courts, which have staff interpreters or coordinating interpreters on contract.
  - The post-certification workshop should, as possible, include time with a judge and/or attorney.
  - Post-certification requirements should pertain, as appropriate, to both spoken and signed language interpreters.
  - Committee members, Rosa Lopez-Gaston, Andrea Cutter, Alex Montoya, Blanche Raymond, and Shoshanah Epstein agreed to work with Pam Sánchez on further refining a proposal. Other individuals, e.g., Delia Marquez, may also be asked to join this work group.
9. Language Access Specialist Certification – Paula Couselo, Director of the New Mexico Center for Language Access, reviewed the revised LAS curriculum with the committee in light of its expanded scope. It was agreed that the committee will appoint a work group to work with NMCLA faculty to develop ethics and procedures specific to the role of Language Access Specialists in NM courts.
  10. Standards of Practice and Proposed Rules - Justice Serna indicated that he would encourage the Court to address the proposed rules at its next meeting.
  11. 2012 NM Interpreters' Conference -- Lisa Dignan reported on the planning efforts, which are underway with conference keynote speakers, Holly Mikkelsen, Anna Witter-Merithew, and Cynthia Roat. The conference is scheduled for October 5-9 at the Marriott Uptown in Albuquerque, which was also the 2011 location.
  12. Chair Weldon Neff, noting that the 10 minutes remaining of the meeting's scheduled time was not adequate for the discussion of the additional agenda items, indicated that these items 1) pay discrepancies between spoken & signed language interpreters and 2) sound files will be added to the March 9<sup>th</sup> meeting agenda.
  12. Next Meeting – March 9, 2012, 9:00 a.m. to Noon via Video Conference

**1.13.2012 Motion regarding Cancellation Policy:**

That the Committee recommends a change to the AOC's interpreter cancellation policy, which mandates that any signed or spoken language interpreter who has been scheduled for an assignment two or more days in length and receives less than 24-hour notice of cancellation, will be paid for eight hours at their regular hourly rate of pay.

**Current Language regarding Cancellations:**

**E. Guaranteed Payment Due to Cancellation With Less Than 24 Hours Notice**

The court that schedules an interpreter shall be responsible for notifying the interpreter of trial cancellations, continuances, re-settings or settlements. If the interpreter does not receive notice 24 hours prior to the scheduled assignment that the interpreter's services are no longer required, the interpreter will be entitled to the guaranteed minimum as described above, i.e. for spoken language interpreters - two hours payment if scheduled for a half-day assignment or less and four hours payment if scheduled for a full day; for signed language interpreters – all scheduled hours, excluding the lunch hour on full day assignments.

**DRAFT Language regarding Cancellations Based on 1.13.12 Motion:**

**E. Guaranteed Payment Due to Cancellation With Less Than 24 Hours Notice**

The court that schedules an interpreter shall be responsible for notifying the interpreter of trial cancellations, continuances, re-settings or settlements.

If the interpreter does not receive notice 24 hours prior to a scheduled assignment of one day or less that the interpreter's services are no longer required, the interpreter, whether a spoken language or a signed language interpreter, will be entitled to two hours payment if scheduled for a half-day assignment or less and four hours payment if scheduled for a full day at the regularly scheduled rate of pay.

If notice of cancellation is not provided more than 24 hours prior to a scheduled assignment of two or more days the interpreter, whether a spoken language or signed language interpreter, will be entitled to eight hours payment at the regularly scheduled rate of pay.

**Revised Proposal for Mandatory Post-Certification Training  
for New Mexico Certified & Justice System Interpreters**

1. The **Goal** of Mandatory Post-Certification Training is to ensure that newly certified interpreters are as well-prepared as possible to be successful interpreting in the courtroom.
2. The **Objectives** of Mandatory Post-Certification Training are to ensure that newly certified interpreters at the conclusion of the training:
  - Are aware of courtroom protocol and positioning;
  - Have had the opportunity to observe and reflect on various real-life interpreting situations with a certified court interpreter;
  - Are well-versed in the professional code of conduct;
  - Understand the business of court interpreting – registering their business, securing a vendor identification number, completing invoices for interpreting services, mileage, and travel; and
  - Report feeling better prepared for their first court assignment as a certified interpreter.
3. Court Protocol and Ethics Workshop – Half-Day Session
  - Mandatory for all newly certified court interpreters and newly qualified justice system interpreters.
  - Must be completed prior to accepting court assignments or being listed in NM Directory of Certified Court Interpreters.
  - Held in a courtroom or courtroom setting at the UNM School of Law.
  - Offered quarterly, coordinated with the yearly testing schedule, e.g., February and August in Albuquerque and May and November in Las Cruces.
  - The training sessions would be conducted by a certified court interpreter/trainer and the statewide program manager.
  - As possible, a judge and attorney will also be invited to speak briefly with new interpreters.
  - Three hours would focus on courtroom protocol and ethics, including team interpreting and interpreting for a juror and one hour on how interpreters are assigned, business registration, billing, etc.

4. Guided Court Observation Tours – Minimum of two half days
- Mandatory for all newly certified court interpreters and newly qualified justice system interpreters.
  - Must be completed prior to accepting court assignments or being listed in NM Directory of Certified Court Interpreters.
  - Tours will be scheduled as new interpreters are certified. They will be scheduled by the Statewide Program Manager with staff or AOC contract interpreters at the convenience of the court and the newly certified interpreters.
  - It is expected that no more than two newly certified interpreters would participate on any give observation day.
  - Newly certified interpreters will be required to participate in a minimum of one-half day at a District Court and one-half day at a Magistrate Court. Observation must include an interpreter interpreting for a juror.
  - Participants will be accompanied by a certified court interpreter/trainer to discuss what they observe regarding terminology, court procedures, etc. following each observation. These sessions may be conducted in Santa Fe, Albuquerque, Las Cruces, Roswell, and Lovington.
  - This requirement could be completed before or after the half-day workshop described above.
4. Other Details:
- Fees will not be charged.
  - Special accommodations may be made for someone who cannot make any of the scheduled sessions at the discretion of the Statewide Program Manager.
  - The required mandatory post-certification training will also apply to certified interpreters seeking reciprocal certification in New Mexico.
  - These requirements will take effect for all individuals becoming certified or qualified as justice system interpreters following the approval of these requirements.

**Regarding Pay Discrepancy Between Rates Paid to Spoken Language Interpreters and Signed Language Interpreters**

**Proposed Motion:**

It is so moved that the Court Interpreter/Language Access Advisory Committee appoint a subcommittee to review and research rates of pay nationally for spoken and signed language interpreters working in state courts and develop a recommendation regarding pay discrepancies for the committee's consideration no later than September, 2012.

Be it further moved that the subcommittee be comprised of three freelance spoken language interpreters, three freelance signed language interpreters (including one SC:L and two JSIs), and the Chair of the Court Interpreter/Language Access Advisory Committee or his designee who is a non-interpreter member of the Advisory Committee and will be staffed by the Statewide Program Manager.



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From : Elizabeth A. Mayes <sfedeam@nmcourts.gov> Mon, Jan 09, 2012 01:25 PM  
Subject : sound file information  2 attachments  
To : Pamela Sanchez <aocpjs@nmcourts.gov>

Hello Pam,

I attach two files containing the results of my preliminary investigation into current rules used in other court systems for the translation of sound files in court. Since I brought up this issue at the last Advisory Committee meeting, would you please forward these materials to the committee members and include them on the agenda for the meeting this week? Thank you.

Elizabeth

--

Elizabeth Mayes  
Staff Interpreter  
First Judicial District  
Santa Fe, NM  
505.455.8220

## OTHER STATES' POLICIES ON EXTEMPORANEOUS INTERPRETATION OF SOUND FILES

I spoke with interpreting services managers in five states to ascertain what, if any, policies are in place in states with large interpreting caseloads regarding extemporaneous translation of sound files in judicial settings.

Two states, New York and California, apparently do not have an official policy currently in place. However, the other three states contacted have an official policy in force, a pending official policy, or an informal policy against requiring or allowing extemporaneous translation of sound files during judicial events.

### WASHINGTON, D.C.:

James Plunkett, of the Superior Court of the District of Columbia, sent me a copy of their 'Policy on Audio and Video Tape Transcriptions and Translations,' which is currently in force. A copy is attached.

This policy states, "A court interpreter cannot accept a request to provide interpretation, on or off the record, of any audio recordings presented as exhibits or evidence at hearings or trials." The policy goes on to explain that extemporaneous interpretation of audio recordings in court is qualitatively different from interpreting for a live speaker for a variety of reasons characteristic of recordings, such as poor sound quality, overlapping speakers, obfuscatory background noise, use of insider lingo or gestures by speakers, inaccessibility of contextual information, inability to request clarification, etc.

An additional reason offered is that juries and other parties can be confused by the replaying of sound files. Standard professional practice of translators and transcribers dealing with sound files is to listen to recordings multiple times in order to produce a maximally accurate rendition in the target language. This is either impossible in a courtroom setting, or if attempted, can lead to confusion on the part of listeners and delay of the proceedings.

### FLORIDA:

Lisa Bell of the Florida state court system informed me that a working group there formulated 107 recommendations, compiled as "Best Practices and Standards", which have been presented to the Supreme Court and are currently under consideration. Depending on the court's decision, these may be issued as an Administrative Order. One of the recommendations is that all audio and audio-visual recordings should first be transcribed and translated before presentation in court.

### VIRGINIA:

Charlene Watkins of the Virginia state court system informed me that while Virginia does not currently have a written policy requiring transcription and translation of sound files to be presented in court, it is standard practice among Virginia court interpreters to refuse to carry out extemporaneous interpretation of sound files in court on the basis of interpreter ethical standards. She stated that requiring this type of interpretation in Virginia courts "would be unheard of." She also requested that we send a copy of any policy we draft for possible use in Virginia as well.

In sum, preliminary research suggests that there is a national trend emerging toward adoption of explicit rules requiring transcription and translation of audio and audio-visual files to be presented in court. Despite general language recently adopted by the Supreme Court, New Mexico appears to lack a specific requirement as to how sound files requiring interpretation are to be treated in court. In order to establish consistency throughout the state, and to avoid the potentially serious problems which could arise in specific cases as a result of faulty extemporaneous translations, I recommend that the committee send a proposal to the Supreme Court to include a requirement in the Rules of Evidence that sound files requiring translation be transcribed and translated prior to presentation in court.

Elizabeth Mayes

Court Interpreter  
First Judicial District  
Santa Fe, NM

**POLICY ON  
AUDIO AND VIDEO TAPE TRANSCRIPTIONS AND TRANSLATIONS**

A court interpreter cannot accept a request to provide interpretation, on or off the record, of any audio recordings presented as exhibits or evidence at hearings or trials. Extemporaneous or on-the-spot interpreting of audio recordings in court is different from interpreting for a live speaker. Therefore, it is not advisable to interpret in such a situation for the following reasons:

1. The interpreter is not familiar with the material and/or quality of the recording.
2. Portions of the tape are unintelligible or may contain a high level of background noise.
3. Statements may be incoherent at times due to the sound of overlapping conversations.
4. The speakers' communication is typically stilted or halted.
5. Replaying portions of the tape before the Court, the jury, and others causes confusion. In fact, transcribers routinely re-listen to recordings over and over because there are almost always articulation problems that do not allow for clear understanding of utterances. Moreover, although a tape can be replayed, an interpreter may not be able to request clarification of an unintelligible utterance.

The above reasons contribute to inaccuracy in the transmission of the message.

Even if the segment is short, the OCIS advises against requiring a court interpreter to provide an interpretation into English.

The task of transcribing and later translating a recording is time-consuming. It requires special equipment and conditions that enable full concentration. Depending on the length, quality, number of speakers, noise level, intelligibility and speed, the time required to transcribe and translate a tape is about **one and a half hours for every minute of recording**.

Whoever plans to introduce voice recordings as exhibits or evidence must prepare it in advance and must not present it to an interpreter the moment of the proceeding.

If the transcription/translation includes the certification of the person that performed these tasks, then that person should be called to testify.



## Court Interpreter Certification Oral Exam Survey - 2011

The Court Interpreter Program at the Administrative Office of the Courts (AOC) is conducting a study to learn more about how interpreters applying for certification are preparing for the oral certification exam, and to identify any particular factors leading to more successful outcomes on the exam. Information on factors leading to success will be used to develop training and information for dissemination to potential applicants. You have been asked to participate in the study because you are an applicant for the exam. We are requesting that you complete the survey below **and return it with your exam application packet**. The survey should take a few short minutes to complete.

You may be concerned that your answers to the survey could become public. However, there are several safeguards in place to prevent that. Your survey will be seen only by the Interpreter Program staff. Your responses to or participation in this survey will not influence your test results, and your responses will not be shared with the persons who rate (evaluate) your oral exam performance. Identifiable data entered into an electronic database will be protected through AOC's standard computer protections. Data reported will be done at the aggregate level only – no reference will be made to individual responses. In addition, completed surveys will be maintained for a period of three years in a locked file cabinet at AOC's secured offices. After three years, the hard copy will be destroyed. The electronic database will be maintained with full confidentiality protections. If you have any questions about this survey or how the data will be used, please contact Katrin Johnson, Court Interpreter Program Coordinator at 360-704-4062 or [Katrin.Johnson@courts.wa.gov](mailto:Katrin.Johnson@courts.wa.gov).

## Survey – page 1

Please provide answers to all questions, writing clearly in blue or black ink. Where indicated, place an X over the box(es) that most appropriately answer the question.

1. Name: \_\_\_\_\_

2. Age:

- ☐ 50 years or more
- ☐ 40-49
- ☐ 30-39
- ☐ 20-29
- ☐ Younger than 20

3. Language I'm seeking to be certified in: \_\_\_\_\_

4. My first/primary language is (select one):

- ☐ English
- ☐ The language I'm seeking to be certified in
- ☐ Other: \_\_\_\_\_

5. The term "professional interpreter" refers to someone interpreting for pay on a regular basis in a legal, medical, social service, educational, and/or other professional setting. I have worked as a professional interpreter for (select one):

- ☐ 0-3 years
- ☐ 4-7 years
- ☐ 8 years or more
- ☐ I have never worked as a professional interpreter.

6. What made you decide to become a court interpreter? \_\_\_\_\_

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7. How did you learn about the testing & training process for becoming a court certified

interpreter? \_\_\_\_\_

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## Survey – page 2

**8. Please select the item which best matches the highest level of education you have achieved:**

- ☐ Less than high school diploma or High school (or similar) diploma or GED
- ☐ Associate's degree (or similar) or two-year degree or Some college/university
- ☐ College/university diploma
- ☐ Masters/Doctorate (or similar) diploma

**9. This question deals with the primary instruction language used by your school/university. Typically U.S. Universities use English as the primary instruction language. If you have a degree from a U.S. University with a major in a foreign language, your language of instruction is still English. Look back at your answer to question number eight. What was the instruction language used by that school/college/university? (select one)**

- ☐ English
- ☐ The language I'm seeking to be certified in.
- ☐ Both English and the language I'm seeking to be certified in.
- ☐ Both English and \_\_\_\_\_
- ☐ Other \_\_\_\_\_

**10. What steps are you taking to prepare for the oral court certification exam? (Please select all that apply.)**

- ☐ I haven't really studied or trained.
- ☐ I work as an interpreter, and that is how I've been practicing.
- ☐ I am involved in a study group.
- ☐ I am training with self-study materials (e.g. ACEBO's The Interpreter's Edge).
- ☐ I tape record/digitally record myself interpreting.
- ☐ I have observed court proceedings.
- ☐ I have attended court interpreting training classes within the past two years. Please provide additional clarification below:
  - ☐ These classes were specific for my language.
  - ☐ These classes were language-neutral.
- ☐ I attended court interpreting training classes more than two years ago. Please provide additional clarification below:
  - ☐ These classes were specific for my language.
  - ☐ These classes were language-neutral.
- ☐ I have researched legal terminology.
- ☐ I used the Practice Exam Kit from the Consortium for Language Access in the Courts.
- ☐ Other: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_

### Survey – page 3

11. How would you rate your skills in each interpreting mode on a scale of 1 – 5? Please circle one.  
(1 = very weak, 2 = weak, 3 = average, 4 = strong, 5 = very strong)

Sight Translation Non-English language into English	1	2	3	4	5
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Sight Translation English into Non-English language	1	2	3	4	5
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Consecutive	1	2	3	4	5
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Simultaneous	1	2	3	4	5
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12. Is this the first time you are taking the court-certification oral exam?

- ☐ No  
☐ Yes

If no, what have you done differently to prepare for this exam compared to your previous attempt(s)?

- ☐ Nothing different.  
☐ This time I have \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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***Thank you for taking the time to complete this survey. We appreciate your time.***

Please return your completed survey, along with a  
completed oral exam registration form and payment to:

**Bellevue College North Campus  
Attn. René Siegenthaler  
3000 Landerholm Circle SE  
Bellevue, WA 98007**



## AGENDA ITEM # 10

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### Advisory Committee Meeting

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From : Ann Tran <ann.tran90@yahoo.com> Thu, Feb 23, 2012 04:54 PM  
Subject : Advisory Committee Meeting  
To : Pam Sanchez <aocpjs@nmcourts.gov>  
Cc : Self <impeccabletranslation@yahoo.com>  
Reply To : Ann Tran <ann.tran90@yahoo.com>

Dear Pam,

It has been a while since we last visited. I hope all has been well with you and yours.

I am writing regarding my certification situation. Last year I received a letter from the Advisory Committee regarding their decision and the offer to waive the examinations fees, which I greatly appreciate. However, several occurrences involving my interpreter status vis-a-vis Federal Court prompted me to request a few minutes of the Advisory Committee during the March meeting or the May meeting to present these new facts and ask the Committee a few questions regarding the discrepancy between Federal Court and New Mexico Courts regarding interpreter qualifications guidelines. I will bring all the documentation from Federal Court regarding my certified rate, which was promptly re-approved in July 2011, when I was needed for several interpreting assignments there, along with email messages from the USAOC informing me that my name had been entered in the National Registry of Vietnamese interpreters--without any request from me whatsoever.

I hope that you could spare a few minutes of the Committee's time to allow me to ask a few questions that have puzzled me ever since I received the response from the Committee last year. I would greatly appreciate the opportunity to finally verbalize the facts relating to the Consortium written examination and the Berlitz International oral examination that I have both passed, which were fully satisfactory to Federal Court but did not seem to be adequate for NM Courts.

I am looking forward to meeting with the Advisory Committee members in the near future. Thank you very much for your time and kind consideration.

Have a wonderful day!

Ann Tran  
Phone/Fax: 505-291-1060  
Website: [www.atvntranslation.net](http://www.atvntranslation.net)

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